

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA**

**PRECISION WEATHER SOLUTIONS
INC.,**

Plaintiff,

v.

**FARMERS EDGE INC., and FARMERS
EDGE (US), INC.**

Defendants.

C.A. No. 21-821

JURY TRIAL DEMANDED

**PLAINTIFF’S MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF
MOTION TO DISQUALIFY PURSUANT TO 28 U.S.C. § 455**

Plaintiff, Precision Weather Solutions, Inc. (“PWS”), moves to disqualify Judge O’Grady as he has a financial interest in a material witness for this case.

Factual Background and Argument

Judge O’Grady’s financial disclosure identifies a financial relationship with Raymond James Ltd. (“RJL”), a material witness that may be compelled to testify as to the valuation of defendants, Farmers Edge Inc. and Farmers Edge (US), Inc. (collectively “FE”). Exh. A, Judge O’Grady’s Financial Disclosure (line item 19 listing “Raymond James Bank Cash Account”). RJL underwrote the March 3, 2021, FE IPO. *See* Exh. B, IPO Prospectus, p. 4 and C-2 (listing RJL as underwriter); *see also*, Exh. C, Underwriting Agreement dated February 24, 2021, p. 45 (signature of an RJL managing director).

Plaintiff intends to take discovery of RJL on the subject of, *inter alia*, FE valuations before, during and after the IPO. This RJL evidence is pertinent to the “unjust enrichment caused by the misappropriation of the trade secret that is not addressed in computing damages

for actual loss.” 18 U.S.C. § 1836 (3)(B)(i)(II). Knowing the valuations of FE before and after FE received the stolen technology is a measure of the unjust enrichment. *See, DHI Group, Inc. v. Kent*, 397 F. Supp. 3d 904, 934 (S.D. Texas, Houston Division, 2019) (“Plaintiffs seek to prove the unjust enrichment to Defendants by measuring the difference in Oilpro’s value before and after it obtained the stolen information.”).

Compelling RJL puts plaintiff and Judge O’Grady in a difficult situation. Indeed, Judge O’Grady may be in the position of having to order RJL—a company in which he has a financial interest—to comply with discovery. The law disqualifies any judge “in any proceeding in which his impartiality might reasonably be questioned.” 28 U.S.C. § 455(a). PWS respectfully submits that this is such a situation.

Respectfully submitted,

Dated: January 7, 2022

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